



# Missouri Department of Natural Resources

## MINUTES

### MISSOURI SOIL AND WATER DISTRICTS COMMISSION

### DNR CONFERENCE CENTER

Jefferson City, Missouri

March 6, 2003

**COMMISSION MEMBERS PRESENT:** John Aylward, Elizabeth Brown, Larry Furbeck, Philip Luebbering, Kirby VanAusdall

**EX-OFFICIO MEMBERS:** DEAN THOMAS PAYNE, UNIV. OF MISSOURI: David Baker; **JERRY CONLEY, DEPT. OF CONSERVATION:** Bob Miller; **LOWELL MOHLER, DEPT. OF AGRICULTURE:** Glenna Burre; **STEPHEN MAHFOOD, DEPT OF NATURAL RESOURCES:** Michael Warrick

**ADVISORY MEMBERS PRESENT: SOIL & WATER CONSERVATION PROGRAM:** Sarah Fast; **NRCS:** Dick Purcell; **MASWCD:** Peggy Lemons

**STAFF MEMBERS PRESENT:** Davin Althoff, Gary Baclesse, Gorman Bennett, Brad Berhorst, Jim Boschert, LeAnn Bullard, Chris Evans, Noland Farmer, John Forsyth, Rose Marie Hopkins, Gina Luebbering, Dean Martin, Marcy Oerly, Teresa Philbert, James Plassmeyer, Josh Poynor, Jeremy Redden, Ron Redden, Kevin Scherr, Alice Schultz, Judy Stinson, Ken Struempf, Bill Wilson

**OTHERS PRESENT: DISTRICTS:** CALDWELL: Wendy Bowen; MONTGOMERY: Tom Kremer, Marlene Muchow, Bob Ridgley, Brenda VanBooven; RANDOLPH: Shelly Sumpter; WASHINGTON: Kelly Farris, Brenda Wurst; **STATE OF MISSOURI: ATTORNEY GENERAL'S OFFICE:** Harry Bozoian; **DEPT. OF NATURAL RESOURCES:** Denise Evans; **OTHERS: EMPLOYEES ASSOCIATION:** Ben Reed; **MLICA:** Eddie Gilmore **NRCS:** Dwaine Gelnar, Tammy Teeter; **INDIVIDUALS:** Linda Ziegler, Tom Ziegler

#### A. CALL TO ORDER

Chairman Elizabeth Brown called the meeting to order at the DNR Conference Center in Jefferson City, Missouri, in the Bennett Spring/Roaring River Meeting Room at 8:35 a.m.

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### **B. COMMISSIONERS' PLANNING SESSION - STEVE JEANETTA**

Steve Jeanetta with the University of Missouri facilitated a planning session with the commission to develop a strategy for how the commission will work in the future. Mr. Jeanetta said he would be covering four major areas in this session.

The first area was what the commission felt were its strengths or what worked well. Some of the strengths mentioned by the commission were making exceptions to the rules when necessary, understanding each other and respecting opinions of others, working toward a common goal; having no personal goals, and provide resources to enable local areas to solve their own problems. Commissioners also mentioned rising above criticism of the commission and avoiding politics in its decisions as strengths. All of the commissioners agreed that staff professionalism was a strength and asset. They felt that the information provided by program staff was complete and given in a concise and easily understood manner that covered the concerns of all involved. The fact that staff was proactive in notifying the commission of developing issues was also appreciated. The commission also felt that the organization of material prior to and at its meetings facilitated its work.

The second area covered was the challenges that the commission faced. Some of the challenges mentioned were getting the Parks and Soils Sales Tax renewed, dealing with political pressure, working with its conservation partners, and communication. Two major challenges mentioned were developing a way to measure the impact of Special Area Land Treatment (SALT) practices on clean water and the Senate bill that would dissolve this commission and others with Missouri Department of Natural Resources (DNR) and then create one commission that would cover all of the programs of DNR. Some other challenges mentioned were having its decisions taken out of context, the urban versus rural problem, and understanding the concerns and problems of the agricultural landowner. Another major challenge discussed was the line between soil and water issues and how to divide its funds. Water quality can be a byproduct of soil erosion and conservation and stopping the sediment and chemicals from going into streams helps keep the water clean. It was suggested that urban constituents would look to water quality when voting on the sales tax because they did not understand the adverse effects of soil erosion. The commission felt that public perceptions were that, if a chemical killed weeds for example, it must have an adverse affect on the soil and that the soil erosion problems of the state had been solved. The commission said that controlling erosion was an ongoing process or the state would digress back to where it started. The commission was also concerned that the pendulum would swing so far that there would be a severe operation problems in the livestock industry. There was concern that the next few years would see some severe rules and laws.

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The third area was what would make the job of the commission easier. It was suggested that staff could handle some of the issues routinely approved by the commission and bring any that involved other than routine issues to the commission. Also mentioned was having sufficient funds to be used as an incentive to put the correct practices on the land. It was felt that the fact that the commission was made up of agricultural landowners was an asset because they better understood the issues. The commissioners would like to have some demographics of its constituents covering such issues as urban versus rural voters.

The fourth area covered by Mr. Jeanetta was the purpose of the commission. It was felt that the major purpose was to promote agriculture and conservation on the productive lands in the state of Missouri and to keep sediment and runoff caused by erosion out of the streams. The conservation practices promoted by the commission allowed the agricultural industry to fix its problems in an efficient manner. It was pointed out that these practices were based on voluntary participation rather than directed participation and they should be instituted as soon and as efficiently as possible.

The commission also discussed the predictions of where its issues would be ten years in the future. The members did not feel that the types of problems would change and that chemical and water runoff, pure water, etc., would remain but the control would be heading in the right direction. It was suggested that erosion could be controlled but not cured. The hope was expressed that each person would leave the land in better condition than when he got it since technologies and techniques would continue to improve.

Mr. Jeanetta said he would like to provide opportunities for the commission to interact with its conservation partners, districts, and landowners. He wanted to develop ways to hold similar discussions with local boards, and decide how information could be shared so that there were common elements and a broader education base could be built. He wanted to build communication connections in the communities in order to continue the commission's programs. At the next commission meeting, the planning discussion would revisit the purpose and some of the goals of the commission. They would correlate current programs, new developments, and relationships to help reach the goals discussed at this meeting. Also, the larger planning process would be discussed.

### **C. MINUTES OF THE LAST MEETING**

After reconvening the meeting at 10:30 a.m., Kirby VanAusdall made a motion to approve the minutes of the January 23, 2003, commission meeting as mailed. Larry Furbeck seconded the motion. When asked by the chair, John Aylward, Larry Furbeck, Philip Luebbering, Kirby VanAusdall, and Elizabeth Brown voted in favor of the motion and the motion carried unanimously.

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### **D. PLANNING**

#### **1. Research Update**

Dean Martin updated the commission on research and possible changes in the research process in order to get better results. Mr. Martin said that there would be approximately \$212,000 available for research in Fiscal Year 2004 (FY2004). He briefly reviewed some of the results of the current research process. While some proposals addressed the commission's priority topics, many did not. Directed research, which asked staff to pursue certain projects, was quicker because of defined projects that addressed the commission's priorities. However, it was not competitive and did not result in a broad spectrum of proposals.

Meetings and discussions were held with the University of Missouri and the Missouri Department of Conservation (MDC) personnel to discuss project-based research under an ongoing agreement. This could result in matching funds from other sources to complement what the commission would like to do. Mr. Martin said that an overall agreement for research that addressed administrative issues had also been proposed.

Project-based research was defined as research project priorities developed by the commission with input from districts, agencies, staff, and others. A Project Steering Committee could be established for each project that the commission decided to pursue. Staff would work with the university and the Project Steering Committee to develop the project and follow progress. This would be more of a collaborative process in working through the scope, experimental design, necessary contracts, agreements, and financing. The commission would have approval of the final project agreements. Mr. Martin said that models to predict water quality improvements due to conservation practices, citizen attitudes regarding conservation issues, and improved systems to design and lay out terraces were topics that might be pursued under this process that the commission had discussed in the past.

Elizabeth Brown felt that the measurement of water quality was high on the commission's priorities but expressed concern with the possible cost. Mr. Martin suggested working with the university, MDC, and the DNR Water Pollution Control Program to put together a package on water quality measurement to bring back to the commission. David Baker agreed that this would be an opportunity to pool resources to address a topic that was a common need and of interest to all the partners. Mr. Martin pointed out that there was \$160,000 available each year for the commission to use for research. Mr. Furbeck expressed his approval of this type of approach.

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It was the consensus of the commission to pursue research to develop models to predict water quality improvements due to conservation practices. Staff will also begin developing possible proposals for the other topics for the commission to consider.

### 2. Needs Assessment Report

Dean Martin presented a summary of the *Needs Assessment* for the commission. He said that staff was currently working with 1997 National Resources Inventory (NRI) data; however, he understood that the 2002 data would be available in March 2004. While there was no access to any of the new data, staff had been told that the trend looked good and progress was being made. The goal for FY2006 was 1.3 million acres or less would be eroding above tolerable (T) levels. Mr. Martin said that the progress in Missouri was better than in any other state and the country as a whole; however, a lot of work remained.

According to 1997 NRI data, 5 million acres had been eroding above acceptable levels and there were significant agriculture impacts on water quality. The major work remaining was on cultivated cropland because 37.3 percent remained eroding above T. Less than 10 percent each of non-cultivated cropland, pastureland, and land in the conservation reserve remained above T. Five of the major resource areas contain 88 percent of the state's cultivated cropland eroding above T. Mr. Martin reported that there were 39 approved watershed SALT projects with 17 projects in the planning stage.

Mr. Martin said that the soil and water conservation districts remained central to the delivery of soil conservation programs. He reported that all of the districts had been audited, cost-share and accounting computer systems were in place, and leadership and development training was being provided. A research project, *Empowering Local Districts to Solve Local Natural Resource Problems and to Reach Diverse Constituencies*, had been conducted. In addition to administering the state cost-share program, the districts administer conservation demonstration programs, provide education, cooperate with MDC, Natural Resources Conservation Service (NRCS), and other agencies, and provide local expertise to private individuals and local governments.

Mr. Martin said that the new Farm Bill would provide additional funds for Environmental Quality Incentive Program (EQIP), Wildlife Habitat Incentives Program, Wetland Reserve Program, Conservation Reserve Program, and the Farmland Protection Program. However, the workload and technical services had not been finalized. He reported that the soil science program was in a transition

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phase and progress was being made in a number of areas. The soil scientists were working on getting the collected data entered into the system, digitizing maps, and developing interpretation tables. All published surveys and some not yet published are available on compact disk.

Mr. Martin gave a brief overview of the proposed Soil and Water Conservation Program budget for the state fiscal year 2004. The two main changes from last year were the proposed increase to district assistance for education and information and the \$250,000 cost-share increase. Sarah Fast said that the *Needs Assessment* would be available on the Web.

### E. APPEALS

#### 1. Cost-share

##### a. **Howell County Soil and Water Conservation District (SWCD): Request Cost-share for a Landowner whose Application Was Approved for Less Than \$100**

Noland Farmer presented an appeal from the Howell SWCD for cost-share on a Permanent Vegetative Cover Improvement practice for less than the \$100 commission limit. Mr. Farmer briefly reviewed commission policy.

The district board approved two applications for the same landowner. One was for \$105.05 to seed three acres and one was for \$95.08 to seed 2.3 acres. Staff approved the first claim. However, the board asked that the claim not be processed until the commission made a decision on the second claim in order to allow one check to be issued should the commission reach a favorable decision. The board stated in a letter that it thought that it was acceptable to approve an application of less than \$100 when there was more than one application and the combined payment was greater than the \$100 limit. The board pointed out that it had previously submitted claims for less than the minimum that had been processed for payment. Program staff felt this was possible because of a temporary policy for reseeding fields because of the drought. Staff suggested that the two fields should have been submitted on the same application. The district board said that the two fields were not combined because they required separate soil tests. Mr. Farmer pointed out that, although separate soil tests were taken the nutrient and seed requirements could have been combined on a single application.

Larry Furbeck made a motion to approve the board's request. Philip Luebbering seconded the motion. When asked by the chair, John

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Aylward, Larry Furbeck, Philip Luebbering, Kirby VanAusdall, and Elizabeth Brown voted in favor of the motion and the motion carried unanimously.

**b. Montgomery SWCD: Re-appeal on Cost-share for Reconstruction the Board Approved Without Commission Approval**

Marcy Oerly presented an appeal from Montgomery SWCD for cost-share assistance on the reconstruction of two DSL-44 Terrace Systems with tile practices and one DWP-3 Sod Waterway Practice that failed due to heavy rainfall. Ms. Oerly briefly reviewed commission policy.

According to a letter from the district, reconstruction on two of the applications had already been completed. The board had approved the third application but the landowner had been notified that he could not start work until it received commission approval. The district stated this was a clerical error. In its letter, the board said that the district manager made minimal errors and the district rarely had to make appeals to the commission.

Marlene Muchow representing the Montgomery SWCD reiterated that this had been her error. She said that, after the district's technical staff had evaluated the damages, the district board approved the applications, and two of the practices were completed. The district did not realize that the commission needed to approve the request for reconstruction before board approval. Ms. Muchow pointed out that the landowners had acted in good faith and should not be penalized. She said that, while the amount of paperwork involved in cost-share was very large, Montgomery district had a minimal amount of errors.

When asked by the commission, Ms. Muchow said that commission approval would, in the future, be sought before the district board approved a reconstruction practice. She did not know if additional landowners would apply for reconstruction cost-share since they had been told to come back in the fall to make application.

John Aylward made a motion to change the previous decision and approve the board's request for the three practices. Philip Luebbering seconded the motion. When asked by the chair, John Aylward, Larry Furbeck, Philip Luebbering, Kirby VanAusdall, and Elizabeth Brown voted in favor of the motion and the motion carried unanimously.

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Elizabeth Brown announced that Tammy Teeter, the Montgomery NRCS District Conservationist, was to be awarded the Conservation Federation of Missouri's 2002 Conservation Educator of the Year for Missouri. Ms. Teeter said that she would not have received the award without the help of district employees.

### **F. REVIEW/EVALUATION**

#### **1. Land Assistance Section**

##### **a. Cost-share**

##### **1. Monthly Cost-share Usage and Fund Status Report**

Noland Farmer reported that \$23.8 million had been allocated as of February 28, 2003, including additional allocations from the FY2002 re-appropriated funds. Based on previous years, it was projected that the districts would claim \$20.5 million. As of February 28, \$12.6 million in claims had been processed, while \$11 million had been projected to be claimed. \$3 million was claimed in January and \$1.7 million was claimed in February. At this time in FY2002, \$12.3 million in cost-share had been claimed.

##### **2. Practices Started Prior to Board Approval – Input Received from District Boards**

Ron Redden presented a follow-up on practices started prior to board approval. He reported that a questionnaire had been sent to the districts. Out of 114 districts, 56 or 49 percent of the districts responded.

Mr. Redden briefly reviewed the questionnaire. The boards were asked whether or not cost-share should be partially denied if a landowner started a practice prior to board approval through no fault of the district or technical staff and 13 districts responded yes and 14 responded no. When asked whether or not cost-share should be completely denied under the same circumstances, 21 districts responded yes and 17 responded no.

Another question was, whether or not the landowner should be penalized if it was indicated that staff was at fault when a practice was started prior to board approval. One district responded yes and 38 responded no. Twelve districts responded that, under the



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same circumstances, the district/board should be penalized and 19 said no. Districts that indicated that the board/district should be penalized believed that the penalty should be one to ten percent of the cost-share on the practice in question or a set amount, such as \$100.

The last question was whether or not the landowner should be required to sign a Pre-practice Certification. Most of the districts indicated that they favor the use of the form. Among the districts opposed to its use, most indicated that they did not want the form required because there were already too many forms for the landowner to sign. Mr. Redden said that the Landowner's Signature Page stated that the landowner was not to start the practice prior to board approval but did not mention any consequences. He said that the Certification Form required the landowner to certify that the practice had not been started and would not receive cost-share assistance if it had been started prior to board approval.

Peggy Lemons with Missouri Association of Soil and Water Conservation Districts (MASWCD) said that the association had requested suggestions from the districts regarding this issue and that some of the responses it had received went into more detail than what Mr. Redden had indicated. Ms. Lemons briefly reviewed some of those responses. Several districts commented that they preferred districts be allowed a certain number of mistakes per year. Another suggestion was to deal with repeat offenders and not make a rule covering all of the districts. Some felt that new employee training should be a priority and addressed in depth by either MASWCD or program staff. Other districts felt that, should a financial penalty be assessed, it should come from the cost-share program and not taken from the District Assistance funds. Most of the answering districts stressed the fact that the designs should not be given to the landowner until the application had been approved. It was pointed out that there had been some confusion because the landowner was to sign a separate page than the district board and technician sign. Ms. Lemons reiterated that the number of errors that the commission saw on appeal or request was very small when compared to the total number of applications and claims that the districts process. One county required landowners to pay a deposit when they signed up for cost-share.

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One of the reasons that this deposit would not be returned was starting the practice prior to board approval.

Marlene Muchow said that her district felt that one of the commission's duties was to hear requests and appeals for determination and that the commission was the appropriate level for these decisions. Elizabeth Brown and Philip Luebbering agreed that designs should not be given out before the board approved the practice. Mr. Luebbering said that anything that did not create another problem but only helped decrease the number of errors would be good. Ron Redden said that separate pages for landowner and district signatures had been recommended by the AGO. Some districts for various reasons print the landowner's signature page before the rest of the application. Ben Reed with the Employees Association expressed concern that the landowner signed a page that did not show any amount or the components of his practice. Ms. Muchow pointed out that the landowner had to bear some of the responsibilities. Mr. Redden said that holding the designs until the application was approved would not be a deterrent in seeding practices but would help with structural practices.

John Aylward expressed the desire to see that no designs given out until the board had approved the application. He felt that the commission spent too much time on this type of request. Bob Miller suggested that the District Assistance Section put together guidelines/checklist for the districts. Elizabeth Brown agreed. Ron Redden said that the distribution of the designs could be tied to board approval. Peggy Lemons pointed out that a landowner could not know what he was signing for if all of the cost-share papers were not ready when the Landowner Signature Sheet was completed. She felt the whole application should be ready before the landowner signed. In Ste. Genevieve District, the landowner signs a Request for Technical Assistance form. Noland Farmer said that program staff did not care whether the technical staff or the landowner signed first. He also said a pre-construction conference could also work.

Mr. Farmer reported that program staff processed over 7,000 claims in FY2002 and the commission heard seven appeals, which figured approximately one-tenth of one percent. When asked by the commission, Mr. Farmer said that the benefits of having one

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standard form for all districts would depend on the amount of flexibility the commission wanted to take away from the district boards. He suggested using the checklist that could be found in the Cost-share Handbook as a guideline. Kirby VanAusdall felt that there would always be a few errors that would come before the commission and thought things should remain the same. Elizabeth Brown thought that the commission's concern would, in itself, rectify some of the problem. Larry Furbeck felt the commission should still consider the suggestions and comments from the districts. Philip Luebbering did not want to force a change on districts that were not having any problem or only once in a great while. He suggested having program staff visit districts that were having a problem and going over the checklist and list of district suggestions.

It was the consensus of the commission to continue with current policy and revisit the issue in the future if necessary.

### **G. CLOSED SESSION**

Philip Luebbering made a motion to go into closed session to discuss legal, confidential, or privileged matters under §610.021(1) RSMo, personnel actions under §610.021(3) RSMo, personnel records or applications under §610.021(13) RSMo, or records under § 610.021(14) RSMo, which are otherwise protected from disclosure by law. Larry Furbeck seconded the motion. When polled, John Aylward, Larry Furbeck, Philip Luebbering, Kirby VanAusdall, and Elizabeth Brown voted in favor of the motion and the motion carried unanimously.

When the commission reconvened in open session, Harry Bozoian reported that the commission, in closed session, had voted unanimously by roll call vote to approve two matters that had been referred to the Missouri Attorney General for legal action. The first, Mr. Mike Hood from Macon County, had been referred for the collection of an overpayment for a cost-share fencing practice. The amount of overpayment was determined to be \$67.50. The commission approved the recovery of this amount and the overpayment was deposited in the Soil and Water Conservation Program cost-share fund.

The second referral was for Sandy Yockey with regard to collecting the prorated amount of \$3,839.32 for the remaining required maintenance on a DSP-3 and a DRF-5 practice. It was determined that Ms. Yockey failed to maintain the practices at about the halfway point of the required maintenance period. Mr. Bozoian reported that the commission voted unanimously by a roll call vote to authorize settling for one-half of that amount and

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suspending the other half on the condition that the landowner and operator would maintain the practices for the life of each. If the practices were not maintained, the full amount would be due and owing. Mr. Bozoian said that he would draft a settlement agreement spelling out these terms. The attorney for the landowner indicated that his client had agreed to the terms set forth by Mr. Bozoian. He said that the agreement would be made public once it was fully executed.

### **H. REVIEW/EVALUATION - Continued**

#### **1. Land Assistance Section - Continued**

##### **a. Cost-share - Exception to the DSP-3 Four-consecutive Year Policy**

Marcy Oerly gave a follow-up to the requests from Ste. Genevieve, Wright, and Dade SWCDs for an exception to the DSP-3 policy regarding the four-year participation limitation. Mr. Oerly briefly reviewed commission policy and the information reported at the last commission meeting.

The Ste. Genevieve landowner wanted to expand his DSP-3 system and add a DSP-333 well practice. The Wright landowner had been unable to begin implementation of an additional DSP-3 practice within the four-year limit due to ill health. The Wright landowner was requesting additional pipeline and tanks. The Dade landowner was requesting a DSP-333 because his original water source was no longer available.

Ms. Oerly provided a DSP-3 table that encompassed FY1993 through 2000. She said that anyone with a DSP-3 or DSP-33 claim approved in FY1999 or before is, or will be, affected by the four-year participation limitation by June 30, 2003. This amounted to 703 practices out of which only 35 have reached the \$9,000 maximum. The inclusion of FY2000 resulted in an additional 321 practices and 55 practices out of a total of 1240 had reached the \$9,000 maximum. Ms. Oerly briefly reviewed changes made to the practice since 1993 and the reasoning for the four-consecutive year policy.

Because the Ste. Genevieve landowner felt that there might be some support from the commission, he proposed a policy stating that the DSP-3 systems that had claims approved prior to June 30, 1999, would be allowed to participate in the DSP-333 program. However, all applications would have to be submitted to and approved by the district boards prior to June 30, 2004. Ms. Oerly said that commission approval of the proposal

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could result in an additional cost of up to \$4 million to fund the possible claims.

The landowner, Mr. Tom Ziegler, appeared before the commission. He felt that the DSP-3 practices, which started after March 31, 1999, should still be eligible to add a well. He stated that he was interested in participating in the new program, which was no longer available to him because of the four-consecutive-year limit. Mr. Ziegler suggested that DSP-3 practices started before April 1, 1999, would have one year only to apply for the addition of a well. He said that, in his case, a well was the only water source that would work.

When asked, Marcy Oerly said that the possible exposure for the commission should the request be approved could be up to \$4 million. When asked, Mr. Ziegler said that he would like to put an additional 40 acres into a grazing system and would have to have a well for his water source for the additional land but was ineligible because of the four-year rule. Philip Luebbering explained that the addition of cost-share for wells was not available to landowners that had installed the practice more than four years prior. When asked by the commission, Peggy Lemons said that the association did not pass a resolution asking the commission to remove the four-year limit. She said that the issue of allowing someone past the four-year limit to take advantage of a recently added component/practice of the DSP-3 was not discussed. Mr. Ziegler said he did not have a problem with the four-year limitation but, rather, with the fact that this practice was not available during his four-year eligibility. He felt that this penalized the people that pioneered the practice.

John Aylward made a motion to allow landowners that have had DSP-3 claims approved prior to a certain date, one year to apply for participation in the practice. Philip Luebbering seconded the motion. When requested by the chair, a poll vote was taken. John Aylward and Philip Luebbering voted in favor of the motion. Larry Furbeck, Kirby VanAusdall, and Elizabeth Brown voted against the motion. Failing to receive four favorable votes, the motion did not carry and current policy remained in force.

- b. SALT - Evaluation of the SALT Management Strategy Process**  
Ken Struempf presented an evaluation of the management strategy process for SALT projects, which is used when projects are not achieving

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a sufficient amount of the goals each reporting period to enable them to have a successful project.

Mr. Struempf reviewed the process for the commission. He said that the minimum progress was a conservative estimate. If it appeared that minimum progress was not attainable, program staff would send a letter to the district board indicating the project was being placed on management strategy. The board could then decide to terminate the project or, if not, notify the program office by letter of their plan to rejuvenate the project. The board's plan would be reviewed by program staff and either approved or denied. Mr. Struempf said that the SALT coordinator would work with the board in developing a new plan if the board's was not acceptable. Staff would reevaluate the progress at the time of the next semi-annual progress report if the board's plan were approved.

At the time of reevaluation, progress would fall into one of three categories. One of the categories would be the district had not shown sufficient progress and the district should revisit the approach being used to reach the goal. Another category was that the district showed progress but was still under the minimum. The last was that the project was ready to be taken out of management strategy because at least the minimum requirement had been met. Mr. Struempf briefly reviewed these three categories. He explained that, if a district failed to show the minimum progress three times while under management strategy, the project would be terminated and staff would notify the district of that decision. At that time, the district could enter an appeal of that decision with the commission. A project would be terminated at the end of the quarter and the district would be asked to return any funds. This would allow approval of any pending cost share applications and accommodate any personnel funded through the project.

Mr. Struempf said that in developing the management strategy approach, program staff was looking for some type of plan for districts on management strategy. He pointed out that staff would work with the districts in management strategy looking at improving their situation. He said that there was one district that would probably be placed under management strategy for the first time if this strategy were approved.

Philip Luebbering made a motion to approve the management strategy process as presented. Larry Furbeck seconded the motion. When asked by the chair, John Aylward, Larry Furbeck, Philip Luebbering, Kirby

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VanAusdall, and Elizabeth Brown voted in favor of the motion and the motion carried unanimously.

### **2. District Assistance Section**

#### **a. Update on SWCD Audits**

Jim Boschert updated the commission on the status of the soil and water conservation district audits. Mr. Boschert briefly reviewed a memorandum sent to the districts regarding these audits. He said that the first set of audits had been seen as a learning experience. In addition to the memorandum, soil and water district coordinators will review a district's audit findings and corrective plan of action with each district. The district coordinators will also review the overall most common audit findings with each district. Program staff has held training sessions for district supervisors at the annual training conference. Mr. Boschert said that these workshops covered all aspects of district management including personnel and payroll issues, internal controls, and cost-share findings. The use of district local funds was also discussed.

Mr. Boschert said that program staff also made changes to the quarterly report process. Last year districts were asked for a copy of the District Local Ledger in the summary form. He said that, this year, the districts would need to include a detailed copy of the local ledger. A letter from Lawrence SWCD was presented to the Commission that expressed the belief that funds raised locally should not be governed or policed by the program office. The Commission also reviewed the response letter from the program office. Staff reviews the local ledger for ineligible items. Items not allowed by the Missouri Constitution include employee bonuses, flowers, baby gifts, and paid expenses for spouses.

#### **b. FY2003 Matching Grant Program: Unobligated Matching Grant Funds**

Jim Plassmeyer presented a review of the FY2003 Matching Grant Program. The FY2003 budget contained a \$500,000 expansion in the district assistance funds. Part of that expansion went into the Matching Grant Program and increased the amount available to each district from \$4,000 to \$5,000. Mr. Plassmeyer briefly reviewed the history and process of the one-to-one Matching Grant Program.

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Of the total \$570,000 allocated to this fund in FY2003, \$455,572 had been obligated. District operations and info/ed accounted for the largest percentage in the amount of \$155,424 or 34 percent and office equipment accounted for the least amounting to \$5,450 or one percent. Other categories included field equipment with a total of \$21,700 or 5 percent, machinery with a total of \$44,744 or 12 percent, management personnel with a total of \$86,756 or 19 percent, and information/education (info/ed) personnel with a total of \$12,805 or 3 percent. Technical personnel with \$117,692 or 26 percent was the second highest.

Mr. Plassmeyer reported that 73 districts had proposals for the full \$5,000; 23 districts had proposals for \$2,500 to \$4,999; 5 districts had proposals for \$500 to \$2,499, and 13 districts did not have any proposals and \$114,427 out of the original \$579,000 had not been obligated. The unobligated funds had traditionally been available to the districts after the January deadline had passed. In the years that the Matching Grant Program was not over-obligated, the percent claimed was between 70 and 73 percent range. For the past five years the commission voted to over-obligate and the percentage claimed ranged from 81 percent in FY1998 to 98 percent in FY2002. This year districts submitted additional proposals for approximately \$76,000 in anticipation of commission action.

Larry Furbeck made a motion to release, on a first-come first-served basis, \$114,427 of the original amount that had not been obligated and over-obligate an additional \$86,000 for a total of \$200,427 until all funds were allocated. Each district would be limited to an additional \$5,000 one-to-one matching grant. Kirby VanAusdall seconded the motion. In response to a question, Mr. Plassmeyer said that funds would be available from unused funds in other District Assistance Grants to cover any over-obligation that might occur. Another possibility would be to carry the expense over to FY2004 and pay it out those funds. When asked by the chair, John Aylward, Larry Furbeck, Philip Luebbering, Kirby VanAusdall, and Elizabeth Brown voted in favor of the motion and the motion carried unanimously.



## I. REQUESTS

### 1. Land Assistance Section

#### a. Loan Interest-share - Adair SWCD: Request to Exceed Six Cubic Yard Capacity Limitation for an Earthmoving Scraper

Marcy Oerly presented a request from the Adair SWCD to exceed the six cubic yard maximum for earthmoving scrapers for the Loan Interest-share Program. The board had explained that the landowner wanted to purchase an eight cubic yard scraper at an approximate cost of \$11,500; however, the board asked that his participation be limited to the commission limit of \$8,000. Ms. Oerly explained that the landowner was not a contractor and intended to use the scraper only on his farm.

Philip Luebbering made a motion to approve the request but only allow the landowner to participate to the \$8,000 limit. Larry Furbeck seconded the motion. When asked by the chair, John Aylward, Larry Furbeck, Philip Luebbering, Kirby VanAusdall, and Elizabeth Brown voted in favor of the motion and the motion carried unanimously.

#### b. Cost-share

##### 1. Andrew SWCD: Request for an Explanation as to Why the DWC-1 Fence Rates Are Less Than the DSP-3 Fence

Ron Redden presented a request from Andrew SWCD for an explanation on the commission's limit on fence used in cost-share practices and the removal of that limit on the DWC-1 practice.

Mr. Redden briefly reviewed the three different fencing rates approved by the commission. The rate used on critical area plantings is \$0.375 per foot for barbed wire fencing and \$0.15 per foot for permanent electric fence. The rate for the livestock exclusion practice is \$0.25 per foot for barbed wire fence and \$0.10 per foot for permanent electric fence. The third rate is for the planned grazing system and is based on county average costs. Philip Luebbering felt that the fence rates were being set based on how much the commission was willing to cost-share on that individual project and not on the cost of the fence.

It was the consensus of the commission to maintain current policy

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### **2. Washington SWCD: Reduce Allocation by \$30,219 and Have the New Number Considered When Re-obligating Funds in FY04**

Ron Redden presented a request from Washington SWCD asking for a reduction of its cost-share allocation by \$30,219. The district asked that the cost-share allocation be reduced from \$150,219 to \$120,000 and that \$120,000 be the amount used at the end of the fiscal year for determining its 80 percent eligibility for re-appropriated funds in August. Mr. Redden reported that, against the advice of district employees, the previous board had applied for additional funds. Due to staffing and four new board members, the district was not able to obligate all of their funds. The current board stated that the conflict between the previous board and NRCS resulted in a limited NRCS service, a disruption of service, and a lower number of cost-share obligations.

Mr. Redden briefly explained the possible impact of this request on other districts. In the past, the figure used to determine a district's eligibility for additional funds had not been lowered when the district had returned unused funds. Mr. Redden reported that approximately 25 districts had requested additional funds if they became available and had been told that each district would have an equal opportunity should funds become available. In response to a question, Mr. Redden said that the district would receive the same initial allocation even if they returned some of their funds this year but they would not be eligible for re-appropriated funds unless they claimed 80 percent.

When asked, Kelly Farris, the District Manager for Washington SWCD, told the commission that the district had installed a complete new board this year. John Aylward felt that the new board should not be penalized. Elizabeth Brown commented that this request was the first of its kind. Larry Furbeck said that the commission appreciated everyone keeping the district running during the tumultuous situation surrounding the board resignations. Sarah Fast suggested program staff remind the commission to look at Washington's percentages at the time of reallocation.

Philip Luebbering made a motion to deny the board's request regarding the return of funds and take special circumstances into consideration next year at the time of re-allocation of funds. Larry

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Furbeck seconded the motion. When asked by the chair, John Aylward, Larry Furbeck, Philip Luebbering, Kirby VanAusdall, and Elizabeth Brown voted in favor of the motion and it carried unanimously.

**c. SALT - Scott and Pemiscot SWCD: Request to Provide Incentives to Operators for the Nutrient and Pest Management Practices**

Ken Struempf presented a request from Scott and Pemiscot SWCDs for SALT incentive payments to be made to operators rather than landowners for nutrient and pest management practices. The requests were a result of the decision by the Office of Administration to send 1099-g forms to landowners for participation in these types of incentive practices.

Mr. Struempf said that the Scott SWCD felt that the 1099-g form being sent to the landowner would hinder participation in the nutrient and pest management practices and the district wanted to be able to provide the incentive to the operator who would be doing the work. He said that the goal for each practice was 20,000 acres and, in one and one-half years the district had completed 2,198 acres of both nutrient and pest management using EQIP funds.

Mr. Struempf said that Pemiscot SWCD had made a similar request. The district maintained that the operator carried the financial responsibility of keeping records; paying a crop scout; and purchasing the fertilizers, pesticides, and herbicides. He said that the district's goal was 13,000 for each practice and the district had not completed any of its goals for the project area in the past one and one-half years.

Mr. Struempf noted that neither practice had a maintenance requirement. He stated that the commission might want the landowner to be aware of the practices being implemented on his/her farm and he thought that the only way to ensure that would be to require the landowner to sign for the practice.

In reviewing the SALT rules, DNR legal counsel believed that the SALT rules were ambiguous because they stated that SALT funds should be available to both landowners and operators, insinuating that all SALT funds should be available to both. However, the SALT rules stated elsewhere that certain SALT monies were only available to landowners. The rule did not specifically state which type of SALT funds, cost-share or

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loan interest-share, should be paid to the landowner or operator. Because of the ambiguity, counsel felt the commission could provide incentives to operators. Counsel recommended that the rules be revised once promulgated if the commission wished the rule to apply to landowners in some instances and operators in others. Harry Bozoian agreed and recommended written landowner authorization be required before an operator could receive cost-share assistance.

In response to a question from the commission, Mr. Bozoian said that a power of attorney would work. He also said that the commission would need to decide whether or not it wanted operators to receive cost-share without landowner consent. Kirby VanAusdall felt the landowner should at least have knowledge of what was taking place since the landowner would still be liable for the practice completed on his farm.

John Aylward made a motion to change commission policy and allow operators to participate in the incentive practices for SALT with the same limits established for landowners. The landowner would be required to sign a consent form authorizing operators to participate in the incentive practices. Philip Luebbering seconded the motion. When asked by the chair, John Aylward, Larry Furbeck, Philip Luebbering, Kirby VanAusdall, and Elizabeth Brown voted in favor of the motion and the motion carried unanimously.

### **2. District Assistance Section - Supervisor Appointment: Bates SWCD**

Gina Luebbering reported that the Bates SWCD Board of Supervisors requested approval of Rod Morris to fill the remainder of the term of Michael McElwain as supervisor. Mr. McElwain resigned due to relocation to Kansas.

Philip Luebbering made a motion to approve the board's request. Larry Furbeck seconded the motion. When asked by the chair, John Aylward, Larry Furbeck, Philip Luebbering, Kirby VanAusdall, and Elizabeth Brown voted in favor of the motion and the motion carried unanimously.

## **J. NRCS REPORT**

Dick Purcell reported that the interim rule for the Technical Service Provider Program had been published. He said that it is possible to register as a provider of technical services electronically at [techreg.usda.gov](http://techreg.usda.gov). Bruce Knight, Chief of NRCS, would be

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approving all of the Technical Service Providers. An amendment is expected that will address the cost issue of this program.

### **K. MASWCD REPORT**

Peggy Lemons reported that MSWCD had decided there would not be an educational seminar this year. Instead, districts will be encouraged to visit with their own legislators in order to get them to understand the issues on a local basis.

Ms. Lemons said that some of the officers of the association would be traveling to Washington, D.C to meet with members of the United States Congress. She was hopeful that they would get additional information regarding Technical Service Providers, the Farm Bill, and the budget.

### **L. LEGISLATIVE REPORT**

Elizabeth Brown testified at a hearing on Senate Bill 25 introduced by Senator Sarah Steelman and Ms. Brown and Larry Furbeck testified at a hearing on Senate Bill 398 introduced by Senator John Griesheimer. Senate Bill 25 proposed the transfer of all appeals that the commission currently addresses to the Administrative Hearing Commission. This Bill also proposed adding one attorney to address these environmental appeals. In her testimony, Ms. Brown proposed that this commission be exempted from the bill. Senate Bill 398 proposed the elimination of the Soil and Water District Commission and six other commissions and replace them with one commission that would address all environmental issues. This bill would replace the current volunteer commissioners from the seven commissions with five paid commissioners. Larry Furbeck added that it appeared that this bill was geared toward regulatory issues. Both commissioners agreed that this bill would be very expensive.

### **M. STAFF REPORT**

Sarah Fast said that Craig Cox had written a column on quantifying conservation that touched on quantifying water quality issues. A copy of his comments was included in the commission's packet.

She said that the commission was invited to attend the 2003 Breimyer Seminar. It was to be held at the Adams Conference Center at the University of Missouri-Columbia on March 13, 2003. She gave the title of the seminar as *Rural Missouri 2010: Challenges and Issues*.

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### **N. DATE OF NEXT MEETINGS**

The date of the next commission meeting was set for Wednesday, May 21, 2003. The planning session will begin at 8:30 a.m. and the business session will follow beginning at 10:30 a.m. in the DNR Conference Center in the Bennett Spring/Roaring River Meeting Room in Jefferson City, Missouri. There was no suggested meeting for June. The July meeting was tentatively scheduled for Wednesday, July 16, 2003, in Jefferson City, Missouri.

### **O. ADJOURNMENT**

Philip Luebbering moved that the meeting be adjourned. Kirby VanAusdall seconded the motion. Motion approved by consensus at 2:35 p.m.

Respectfully submitted,

Sarah E. Fast, Director  
Soil and Water Conservation Program

Approved by:

Elizabeth Brown, Chairman  
Missouri Soil & Water Districts Commission

/as